

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0058

Usual and Customary Business Records Maintained by Brewers (TTB REC 5130/1)

Changes Since Last Approval

Changes made to the Supporting Statement since this collection's last approval:

- Throughout the Supporting Statement, TTB is making minor editorial and grammatical changes for clarity;
- In Question 8, TTB is updating the 60-day notice publication information for this information collection;
- In Question 12, due to a change in agency estimates, TTB is increasing the number of annual responses and responses associated with this information collection (as a usual and customary business record collection requirement, there is no related increase in burden hours); and
- TTB is revising Question 15 to note the adjustments made to this information collection's respondent burden as reported in Question 12.

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wines, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181-4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986 (IRC, 26 U.S.C.). TTB administers these IRC provisions pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

The IRC at 26 U.S.C. 5051 imposes Federal excise tax on beer produced for sale or consumption in the United States. To protect that revenue, the IRC at 26 U.S.C. 5415 requires brewers to keep records containing such information as the Secretary prescribes by regulation. That section also requires brewers to preserve those records and make them available for Government inspection during business hours. The IRC at 26 U.S.C. 5555 also requires any person liable for Federal excise tax on alcohol beverages, including beer, to keep records, make returns, render statements, and comply with rules and regulations prescribed by the Secretary.

Under those IRC provisions, the TTB regulations in 27 CFR Part 25, Beer, require brewers to keep certain records documenting their operations. The required records document the production and packaging of beer and other brewery products, and inventories, removals, returns, shipments, storage, and transfers of such products. TTB believes that brewers keep such records during the normal course of business, regardless of any regulatory requirement to do so, to account for materials and ingredients used, and the amount of beer and other products they produce, remove, ship, transfer, or receive in returns. **Such records allow TTB to establish a brewer's excise tax liability and verify their tax claims, and, as such, are necessary to protect the revenue. In addition, the required records allow TTB to verify that beer is produced, packaged, stored, shipped, and transferred in accordance with the relevant Federal laws and regulations.**

The following TTB regulations in 27 CFR part 25, in whole or in part, prescribe the specific usual and customary business records that brewers must keep and maintain under this information collection regarding their brewing activities:

- § 25.42, Testing of measuring devices.
- § 25.186, Record of beer transferred.
- § 25.192, Removal of sour or damaged beer.
- § 25.195, Removals for analysis.
- § 25.196, Removals for research, development or testing.
- § 25.211, Beer returned to brewery.
- § 25.252, Records. [Of other brewery products produced and removed.]
- § 25.263, Production of concentrate and reconstitution of beer.
- § 25.264, Transfer between breweries.
- § 25.276, Operations and records.
- § 25.291, Records. [General requirements and use of commercial records.]
- § 25.292, Daily records of operations.
- § 25.293, Record of ballings and alcohol content.
- § 25.294, Inventories.
- § 25.295, Record of unsalable beer.
- § 25.296, Record of beer concentrate.

In addition, § 25.300, Retention and preservation of records, and § 25.301, Photographic copies of records, govern how long the required records must be maintained and in what form the records may be kept.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

2. *How, by whom, and for what purpose is this information used?*

Brewers maintain the usual and customary business records required under this information collection requirement at their premises, and the records are routinely inspected by TTB personnel during audits and field inspections. TTB personnel use the required records to, among other things, verify the quantities of raw materials received at a brewery, the quantity of beer, cereal beverages and other products produced and removed from a brewery subject or not subject to tax, and the appropriate rate of excise tax for the removed beer. Such information allows TTB to protect the revenue as such records establish a brewer's excise tax liability and verify their tax claims. In addition, the required records allow TTB to verify that beer is produced, packaged, stored, shipped, and transferred in accordance with the relevant Federal laws and regulations.

3. *To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?*

The usual and customary business records required under this information collection are generated by brewers at their premises and may be maintained in paper or electronic formats at their discretion. Where TTB regulations require records to be kept in a particular format, TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the collection and maintenance of required information.

4. *What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?*

This information collection requires brewers to keep certain usual and customary business records that are pertinent and specific to each respondent. As far as TTB can determine, similar information is not available elsewhere.

5. *If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?*

TTB considers this usual and customary brewery business recordkeeping requirement to be the minimum necessary to protect the revenue and ensure compliance with relevant Federal laws and regulations. Waiver or reduction of this requirement, simply because the brewer's business is small, would jeopardize the revenue as TTB would be unable to verify the excise tax liability and claims of brewers, and it would be unable to verify their compliance with statutory and regulatory requirements. TTB also notes that small brewers will have fewer and smaller transactions than large brewers, and, therefore, their recordkeeping burden will be less.

6. *What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?*

Without the requirement to keep the usual and customary business records required under this information collection requirement, or with less frequent collection of the required information, TTB could not accurately verify a brewer's excise tax liability and claims, which

would jeopardize the revenue. In addition, TTB could not verify a brewer's compliance with the IRC's provisions and TTB regulations related to beer production, removals, and returns.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

There are no special circumstances associated with this information collection.

8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

To solicit comments from the public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on April 3, 2023, at 88 FR 19711. TTB received no comments on this information collection in response.

9. Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?

No payment or gift is associated with this information collection.

10. What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?

TTB provides no specific assurance of confidentiality for this information collection, which consists of usual and customary business records maintained by brewers at their premises. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by the IRC.

11. What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.

This information collection consists of usual and customary business records kept by brewers at their premises. As such, this information collection contains no questions of a sensitive nature, and it does not collect personally identifiable information (PII) in a government electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this information collection.

12. What is the estimated hour burden of this collection of information?

Estimated burden: Based on recent data, TTB estimates that 14,100 brewers are required to respond to this information collection request, with each respondent making one response per year, for a total of 14,100 annual responses. However, as this information collection consists of usual and customary records kept by respondents during the normal course of

business, there are no annual burden hours, as defined in the Paperwork Reduction Act, associated with this information collection per the OMB regulations at 5 CFR 1320(b)(2).

Labor costs: As this information collection consists of usual and customary records kept by respondents during the normal course of business, there are no respondent labor costs associated with this recordkeeping requirement.

Record retention: 27 CFR 25.300 requires brewers to retain the required records for three years, but the appropriate TTB officer may require a brewer to maintain the required records for an additional three years if necessary for an audit or investigation.

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

This information collection consists of usual and customary records kept by brewers during the normal course of business. As such, there are no annualized costs to respondents associated with this collection.

14. What is the annualized cost to the Federal Government?

There are no labor or other costs to the Federal Government associated with this information collection, which consists of usual and customary business records kept by respondents at their business premises.

15. What is the reason for any program changes or adjustments reported?

There are no program changes associated with this information collection and TTB is submitting it for extension purposes only. As for adjustments, due to a change in agency estimates resulting from continued growth in the number of breweries in the United States, TTB is increasing the estimated number of annual respondents and responses to this information collection, from 12,000 to 14,100. However, there is no corresponding increase in the zero burden hours reported for this information collection as it consists of usual and customary records kept by brewers during the normal course of business. Under the OMB regulations at 5 CFR 1320.3(b)(2), regulatory requirements to maintain such records impose no hour burden on respondents.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

TTB will not publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

This information collection consists of usual and customary records kept by brewers at their premises during the normal course of business. As such, there is no TTB-prescribed form or other collection instrument on which TTB could display this collection's OMB approval expiration date.

18. *What are the exceptions to the certification statement?*

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This information collection requirement does not employ statistical methods.